

4497



257348

REMOVAL PROGRAM  
NOTICE LETTER  
ROUTING SLIP  
(REVISED FEBRUARY 2005)

LINDSAY LIGHT II/OU 06  
245 E. OHIO STREET  
(SITE NAME)

**Please sign the Yellow** and check your name off this page.

Then pass the document on to the next name.

**Do not sign this page, SIGN THE YELLOW**

	<u>NAME</u>	<u>MAIL CODE</u>
1. ERB ENFORCEMENT SPECIALIST	<u>Debbie Regel</u>	<u>SE-5J</u> ✓
2. ERB ON-SCENE COORDINATOR	<u>Verneta Simon</u>	<u>SE-5J</u> <i>electronically</i>
3. EESS SECRETARY	<u>Akimi Cheng</u>	<u>SE-5J</u> ✓
4. ORC STAFF ATTORNEY	<u>Mary Fulghum</u>	<u>C-14J</u> ✓
5. EESS SECRETARY	<u>Akimi Cheng</u>	<u>SE-5J</u>
6. EESS ACTING SECTION CHIEF	<u>Ross Del Rosario</u> <i>PR</i>	<u>SE-5J</u> ✓
7. ERB BRANCH SECRETARY	<u>Cynthia Beck</u> <i>[Signature]</i>	<u>SE-5J</u>
8. ERB BRANCH SECRETARY	<u>Nachowicz</u> <i>[Signature]</i>	<u>SE-5J</u>
9. RETURN TO SE-5J/EESS SECRETARY FOR MAILING TO PRPs AND DISTRIBUTION OF BCC LIST.		

DATE MAILED TO PRPs: JUN 21 2006



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGIONS 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

JUN 21 2006

REPLY TO THE ATTENTION OF:

Lindsay Light II/OU6  
SE-5J

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

LaSalle Bank N.A. Trust Number 39369  
c/o Wilson P. Funkhouser, Esq.  
Funkhouser, Vegosen, Liebman & Dunn LTD  
55 West Monroe Street  
Suite 2410  
Chicago, IL 60603

RE: Lindsay Light II Site – Operable Unit 06  
245-252 East Ohio Street/242-256 East Grand Avenue  
Chicago, Illinois  
General Notice of Potential Liability

Dear Mr. Funkhouser:

Your client, the beneficiary of LaSalle Bank N.A. Trust Number 39369 (the "Beneficiary") holds title to property located at 245-253 E. Ohio, 242-256 E. Grand Avenue ("245 E. Ohio"), Chicago, Illinois, and has entered into a purchase agreement with Fairbanks Development Associates ("FDA") regarding the sale and development of 245 E. Ohio. Since September 2000, when the United States Environmental Protection Agency ("U.S. EPA") conducted a radiological survey of portions of the 245 E. Ohio Street property as part of an investigation of the Lindsay Light II Site and discovered elevated levels of gamma radiation indicating buried radioactive materials, U.S. EPA has met and corresponded with you and counsel for FDA to discuss and resolve issues related to the development of this radioactively contaminated property.

On June 20, 2006, U.S. EPA reviewed and commented upon a Removal Action Work Plan for the cleanup of radioactive thorium at 245 East Ohio provided by FDA's contractor, Conestoga-Rovers Associates. Although your client and FDA plan to excavate 245 E. Ohio in the coming month, they have repeatedly declined to enter into any agreement with U.S. EPA for the cleanup of 245 E. Ohio because they do not believe they may be liable parties under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9601 *et seq.* ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) ("SARA"). In correspondence dated February 6, 2006, Mary Fulghum, Associate Regional Counsel explained that your client could not assert having obtained title to the 245 E. Ohio property by bequest as the basis for avoiding CERCLA

Section 107(a)(1) ownership liability because, in 1994, your client excavated underground storage tanks at 245 E. Ohio and thereby created an actual or threatened release of thorium into the environment.

Responsible parties under CERCLA include the current and former owners and operators of the facility, persons who generated the hazardous substances and persons who were involved in the transport, treatment, or disposal of the hazardous substances at the facility. Under Section 107(a) of CERCLA, where U.S. EPA uses public funds towards the cleanup of the hazardous substances, responsible parties are liable for all costs associated with the removal action and all other necessary costs incurred in cleaning up the facility, including investigation, planning, and enforcement costs. Your client, the Beneficiary of LaSalle Bank N.A. Trust Number 39369 which holds title to property located at 245 E. Ohio, Chicago, Illinois, is the current owner and/or operator of the facility as those terms are defined by CERCLA. The excavation and development of 245 E. Ohio may create a release or a threat of release of radioactive thorium from the facility. By this letter, U.S. EPA notifies your client of its potential liability with regard to this matter. U.S. EPA also encourages your client, as a potentially responsible party, to agree to reimburse U.S. EPA for costs incurred to date and to assure that the response activities that U.S. EPA has determined or will determine are required at the facility will be performed voluntarily.

Because of the presence of thorium contamination and the plans to excavate soils at the thorium-contaminated property within the next month, U.S. EPA does not intend to utilize the special notice procedures available under Section 122(e) of CERCLA.

As a potentially responsible party, you should notify U.S. EPA in writing within five (5) business days of receipt of this letter to confirm your client's willingness to perform or finance the radiological cleanup of the facility in accordance with the Removal Action Work Plan and to reimburse U.S. EPA for its costs. Your response should be sent to:

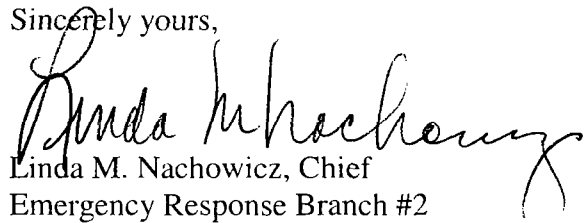
Mary Fulghum, Associate Regional Counsel  
U.S. EPA - Region 5  
Office of Regional Counsel, C-14JJ  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

If U.S. EPA does not receive a timely response, U.S. EPA will assume that your client is no longer willing to negotiate a resolution of its potential responsibility in connection with the facility.

Due to the nature of the problem at this facility and the attendant legal ramifications, U.S. EPA strongly encourages you to submit a written response within the time frame specified herein. We hope you will give this matter your immediate attention.

If you need further information regarding this letter, you may contact Ms. Fulghum of the U.S. EPA Office of Regional Counsel at (312) 886-4683.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Linda M. Nachowicz". The signature is fluid and cursive, with the first name "Linda" being more prominent.

Linda M. Nachowicz, Chief  
Emergency Response Branch #2

cc: Thomas Carey, Bell, Boyd

bcc: Mary Fulghum, ORC (C-14J)  
Cathy Martwick, ORC (C-14J)  
Verneta Simon, OSC (SE-5J)  
Gene Jablonowski, FFRS (SR-6J)  
Larry Jensen, FSS (SMF-4J)  
John Maritote, EESS (SE-5J)  
Debbie Regel, EESS (SE-5J)  
Denise Gawlinski, Public Affairs (P-19J)  
Michael T. Chezik, Department of Interior, 200 Chestnut St., Room 244, Philadelphia, PA 19106  
Alicia Corley, SETS (OS505)  
Betty White, PAAS (MF-10J)  
Records Center (SMR-7J)

Yellow copy

Lindsay Light II/OU6  
SE-5J

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

LaSalle Bank N.A. Trust Number 39369  
c/o Wilson P. Funkhouser, Esq.  
Funkhouser, Vegosen, Liebman & Dunn LTD  
55 West Monroe Street  
Suite 2410  
Chicago, IL 60603

RE: Lindsay Light II Site -- Operable Unit 06  
245 E. Ohio Street, Chicago, Illinois  
General Notice of Potential Liability

Dear Mr. Funkhouser:

On September 29, 2000, as part of an investigation of the Lindsay Light II Site, the United States Environmental Protection Agency ("U.S. EPA") conducted a radiological survey of portions of the 245 E. Ohio Street property and discovered elevated levels of gamma radiation indicating buried radioactive materials. Subsequent sampling of the buried contaminated materials confirmed the presence of radioactive thorium at this property. U.S. EPA has documented the release or threat of release of this hazardous substance, radioactive thorium, into the environment from the property located at 245-253 East Ohio Street, 242-256 East Grand Avenue, Chicago, Illinois. U.S. EPA has taken and may take further response actions pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9601 *et seq.* ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) ("SARA").

Responsible parties under CERCLA include the current and former owners and operators of the facility, persons who generated the hazardous substances and persons who were involved in the transport, treatment, or disposal of the hazardous substances at the facility. Under Section 107(a) of CERCLA, where U.S. EPA uses public funds towards the cleanup of the hazardous substances, responsible parties are liable for all costs associated with the removal or remedial action and all other necessary costs incurred in cleaning up the facility, including investigation, planning, and enforcement costs.

CONCURRENCE REQUESTED									
EMERGENCY RESPONSE BRANCH, SFD									
ES 6/2/06	OSC	AS CHIEF	EES CHIEF	ORC CHIEF	ORC CHIEF	ERS CHIEF	ENP COORD	SFD Director	RA

Section 107(a)(1) ownership liability because, in 1994, your client excavated underground storage tanks at 245 E. Ohio and thereby created an actual or threatened release of thorium into the environment.

Responsible parties under CERCLA include the current and former owners and operators of the facility, persons who generated the hazardous substances and persons who were involved in the transport, treatment, or disposal of the hazardous substances at the facility. Under Section 107(a) of CERCLA, where U.S. EPA uses public funds towards the cleanup of the hazardous substances, responsible parties are liable for all costs associated with the removal action and all other necessary costs incurred in cleaning up the facility, including investigation, planning, and enforcement costs. Your client, the Beneficiary of LaSalle Bank N.A. Trust Number 39369 which holds title to property located at 245 E. Ohio, Chicago, Illinois, is the current owner and/or operator of the facility as those terms are defined by CERCLA. The excavation and development of 245 E. Ohio may create a release or a threat of release of radioactive thorium from the facility. By this letter, U.S. EPA notifies your client of its potential liability with regard to this matter. U.S. EPA also encourages your client, as a potentially responsible party, to agree to reimburse U.S. EPA for costs incurred to date and to assure that the response activities that U.S. EPA has determined or will determine are required at the facility will be performed voluntarily.

Because of the presence of thorium contamination and the plans to excavate soils at the thorium-contaminated property within the next month, U.S. EPA does not intend to utilize the special notice procedures available under Section 122(e) of CERCLA.

As a potentially responsible party, you should notify U.S. EPA in writing within five (5) business days of receipt of this letter to confirm your client's willingness to perform or finance the radiological cleanup of the facility in accordance with the Removal Action Work Plan and to reimburse U.S. EPA for its costs. Your response should be sent to:

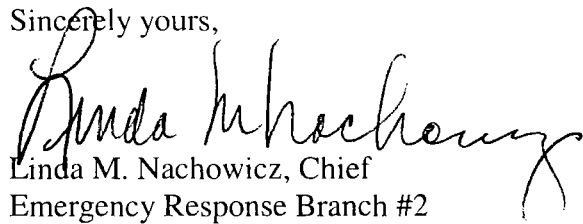
Mary Fulghum, Associate Regional Counsel  
U.S. EPA - Region 5  
Office of Regional Counsel, C-14JJ  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

If U.S. EPA does not receive a timely response, U.S. EPA will assume that your client is no longer willing to negotiate a resolution of its potential responsibility in connection with the facility.

Due to the nature of the problem at this facility and the attendant legal ramifications, U.S. EPA strongly encourages you to submit a written response within the time frame specified herein. We hope you will give this matter your immediate attention.

If you need further information regarding this letter, you may contact Ms. Fulghum of the U.S. EPA Office of Regional Counsel at (312) 886-4683.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Linda M. Nachowicz". The signature is fluid and cursive, with the first name "Linda" being the most prominent.

Linda M. Nachowicz, Chief  
Emergency Response Branch #2

cc: Thomas Carey, Bell, Boyd



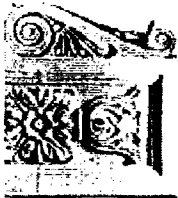
Mary Fulghum

Associate Regional Counsel

VERNETA  
SIMON/R5/USEPA/US  
06/20/2006 01:52 PM

To Mary Fulghum/R5/USEPA/US@EPA  
cc Cathleen Martwick/R5/USEPA/US@EPA, Debbie  
Regel/R5/USEPA/US@EPA, EUGENE  
JABLONOWSKI/R5/USEPA/US@EPA  
bcc  
Subject Re: Updated GNL for 245 E. Ohio [ ]

Great letter, no changes suggested.  
Mary Fulghum/R5/USEPA/US



Mary  
Fulghum/R5/USEPA/US  
06/20/2006 12:55 PM

To VERNETA SIMON/R5/USEPA/US@EPA, Debbie  
Regel/R5/USEPA/US@EPA, Cathleen  
Martwick/R5/USEPA/US@EPA  
cc EUGENE JABLONOWSKI/R5/USEPA/US@EPA  
Subject Updated GNL for 245 E. Ohio [ ]

Take a look at this draft, please. I think it accomplishes Linda's objectives. I would like to get this back to her tomorrow, if possible.



LL2 0U6 Trust Gen Notice June 20.wpd  
Mary L. Fulghum  
Associate Regional Counsel  
U.S. EPA Region 5  
77. W. Jackson Blvd.  
Chicago, IL 60604

(312) 886-4683 voice  
(312) 886-7160 fax

Mary L. Fulghum

Associate Regional Counsel

U.S. EPA Region 5

77 W. Jackson

Chicago, IL 60604